

Supplemental
EXECUTIVE OFFICER SUMMARY REPORT
August 13, 2003

ITEM: 18

SUBJECT: **PUBLIC HEARING:** Administrative Assessment of Civil Liability against Pioneer Builders for violations of the State board's General construction Storm Water Permit Order No. 99-0-DWQ, San Diego Region Basin Plan, and Cleanup and Abatement Order No. R9-2003-158 at the Castillo del Mar subdivision in Dana Point, California. If the discharger elects to waive their right to a hearing, the matter will be rescheduled to allow for a 30-day public review period at which time the Regional Board will consider assessment of civil liability. (Tentative Order No. R9-2003-0301) (Rebecca Stewart)

DISCUSSION: On August 1, 2003 Pioneer Builders, Inc. (Pioneer) submitted its response to Complaint No. R9-2003-270, two days after the extended document submittal deadline for this item. Interested parties in this matter are aware that Pioneer's written comments were submitted late and have requested that they also be provided additional time to submit written comments. Enclosed in this supplemental mailing is Pioneer's response to the issuance of Complaint No. R9-2003-0270 and interested party comments (Supporting Document Nos. 7 and 8). Because the document submittal deadline for this item had already been extended once, the documents were received prior to the supplemental mailing and special handling was not required to distribute the documents, a determination was made to include them in the agenda package in order to provide the Board with as much information as possible prior to the public hearing. However, due to the late submittal, staff was not able to prepare a written response to the comments received. Regional Board staff has reviewed the documents submitted by Pioneer and determined that the information provided contains no new information that would affect the recommendation to assess the liability proposed in the Complaint. Oral comments will be provided during the public hearing.

Pioneer has expressed displeasure that the Executive Officer has chosen not to enter into settlement negotiations on this matter. As explained to Pioneer, the issuance of Complaint No. R9-2003-270 resulted from the direction of the Regional Board at both the April 9 and May 14 Regional Board meetings. As a result of that direction, Pioneer was notified that the matter would be heard at a hearing before the Board unless they chose to waive the hearing. A partial transcript of the directions given by the Chairman to the Executive Officer at the April 9, 2003 Regional Board meeting have been provided in this package for clarification (Supporting Document No. 5).

Tentative Administrative Civil Liability Order No. R9-2003-0301 has been prepared and is included in this supplemental mailing (Supporting Document No. 4).

SUPPORTING
DOCUMENTS:

- (1) Location Map (submitted in previous mailing).
- (2) Complaint No. R9-2003-270 (submitted in previous mailing).
- (3) Technical Analysis, Proposed Administrative Civil Liability Contained in Complaint No. R9-2003-270, Pioneer Builders, Inc. (submitted in previous mailing).
- (4) Tentative Administrative Civil Liability Order No. R9-2003-0301 (enclosed).
- (5) Partial Transcript of April 9, 2003 Board Meeting Public Forum Item regarding Pioneer Builders, Inc. (enclosed).
- (6) Letter from Pam R. Tappan, July 30, 2003 (enclosed).
- (7) Pioneer Builders, Inc. Response to Complaint No. R9-2003-270 (enclosed).
- (8) Dana Point Wetlands Protection Association (enclosed).

RECOMMENDATION:

The adoption of tentative Order No. R9-2003-0302 is recommended.